

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In Re: Tremaine Manley
Debtor(s)

Case No: 18-36579-H3-13

**TRUSTEE'S OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN
AND
MOTION TO DISMISS OR CONVERT TO CHAPTER 7**

THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING. If a response is filed, a hearing on this motion will be held at 9:00 am on Tuesday, February 12, 2019 at the U.S. Courthouse, 515 Rusk, Courtroom # 401.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEY.

William E. Heitkamp, Trustee, objects to Confirmation of Chapter 13 Plan and moves to dismiss the case or convert it to one under Chapter 7 pursuant to Fed. R. Bankr. P. 1017 and Local Bankruptcy Rule 1017-2, and would show the Court that the plan does not meet the requirements for confirmation and thus constitutes grounds for dismissal for the following reasons:

1. Debtor has failed to implement a wage deduction order or EFT/ACH authorization as required by Local Bankruptcy Rule 1007-1(c).
2. Debtor failed to appear for the meeting of creditors as required by 11 U.S.C. § 343 and BLR 1017-2, BLR 2003-1 constituting a failure to appear in proper prosecution of the case for purposes of subsequent eligibility under 11 U.S.C. § 109(g) as required by 11 U.S.C. § 1308.
3. The plan does not meet the disposable income test requirement contained in 11 U.S.C. § 1325(b) for the following reasons:
 - A) Debtor's schedules I and J show an ability to provide a higher dividend to unsecured creditors.
4. The plan fails to provide for payment in full of the secured and priority claims within the term of the plan as required by 11 U.S.C. § 1325 for the following reasons:
 - A) Plan payments are insufficient to pay the installment amounts specified in the plan.
 - B) Plan payments are insufficient to provide adequate protection.

5. Debtor's schedules do not properly reflect Debtor's circumstances for the following reasons:

A) Schedule B, C and J is inaccurate.

6. Debtor has failed to provide the Trustee with the following documents:

A) Tax returns for the following years: 2017.

7. The plan is not feasible pursuant to U.S.C. § 1325(a)(6).

8. The plan filed by Debtor does not comply with BLR 3015-1(a).

9. Payments due Pursuant to 11 U. S. C. 1326 (A) (1), and 1325 (A) (2) have not been made. All payments to the Chapter 13 Trustee must be sent to the following address: P.O. Box 740 Memphis, TN 38101-0740.

For these reasons, Trustee prays that the Court deny confirmation of the plan and dismiss the case.

RESPECTFULLY SUBMITTED,

/s/ William E. Heitkamp

WILLIAM E. HEITKAMP, TRUSTEE

ADMISSIONS ID NO. 3857

**ADDRESS FOR CORRESPONDENCE
ONLY:**

9821 KATY FREEWAY, SUITE 590

HOUSTON, TX 77024

(713) 722-1200 TELEPHONE

(713) 722-1211 FACSIMILE

ADDRESS FOR PAYMENTS ONLY:

P.O. BOX 740

MEMPHIS, TN 38101-0740

CERTIFICATE OF SERVICE

I hereby certify that on or before 01/17/2019, a true and correct copy of the foregoing Chapter 13 Trustee's Motion to Dismiss was served on the parties listed below in the manner shown below.

By First Class Mail:

TREMAINE MANLEY
8751 BROADWAY
APT. 3214
HOUSTON, TX 77061